

A
REFUTATION

OF THE

“R E M A R K S,

On the Agreement between the COMMISSIONERS for making
WIDE STREETS and MR. OTTIWELL,”

FOUNDED ON

THAT PART OF THE EVIDENCE PRODUCED,

WHICH

THE WRITER OF “THE REMARKS”

HATH

Misrepresented, Mutilated, or Suppressed.

“Thou shalt not bear false Witness against thy Neigh-
bour.”
DECALOGUE.

DUBLIN, PRINTED.

1795.

REFLECTION



OF THE

REMARKS

On the Agreement between the Commissioners for making
Wide Streets and Mr. OTTOWELL,

1608/1986.

FOUNDED ON

THAT PART OF THE EVIDENCE PRODUCED,

WHICH

THE WRITER OF "THE REMARKS,"

HATH

Misrepresented, Misstated, or Suppressed.

"Then I have not been false in my account of the Night-
Decisions."

DUBLIN, PRINTED.

1795.

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A

R E F U T A T I O N,

&c.

WHEN complaints or appeals are brought before that great tribunal the Public, truth and candor, it must be allowed, are ingredients indispensibly necessary towards establishing the statement, and giving credence to the arguments offered. The public, like other judges, form their adjudications on the rules of common sense and the axioms of justice; and will not determine from the glossings of sophistry, or the insinuations of imposition—they will be convinced before they resolve.

It is a principle in law, that if an informer, or indeed any other witness, in giving testimony, wilfully suppresses, or knowingly misrepresents any fact material to the cause, such conduct should entirely destroy his credit with the court,

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and attach infamy to the party who suborned him. The same rule equally applies to a witness who introduces into his evidence a false fact; that is, who swears to a matter that never happened, or never existed.

The writer of "*REMARKS on the MEASURES of the COMMITTEE for Widening Streets*;" whose pamphlet was recently smuggled into the hands of the Lords of Parliament, and a few others, cannot plead ignorance to this rule; for, though he has most grossly deviated, both from its justice and its equity, in his statement and his arguments, yet, occasionally, to answer particular and partial views, he speciously adverts to the rule of evidence above-mentioned, as "the Devil," to cite Shakespeare, "quotes scripture to answer his purpose." This writer, I say, occasionally adverts to a rule of justice and equity, the very foundation of which is truth, with a view to misrepresent facts and establish falsehood.

In this place, it is proper to observe on a circumstance, which must impress considerable weight on the mind of every man who takes the trouble of reading "*Remarks on the Agreement of the Commissioners, &c.*" This circumstance, though extrinsic to the work, shews, by proof irrefragable, that the motive of the writer is not

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to be found in the high-sounding pretence he trumpets forth, "*the public good*," but has sprung from the mean and irritated feelings of *private disappointment*; that the object of the writer is not *justice* to the *public* but *private gratification* to the individual.

To illustrate—The circumstance, above alluded to, is the *time* at which the "Remarks on the Agreement of the Commissioners, &c." have made their appearance. On the 25th of March, 1794, the Lords Committees made their report to the House, and this report, by order of the House, was printed. The report has been before the public, and, no doubt, has been in possession of the author of the Remarks, for near twelve months, without animadversion or notice. The Committee of Noblemen who formed the report, must have thought animadversion unnecessary, as well as unfair; for they presented it to the House without observation or comment. Their Lordships thought, and they thought wisely and rightly, that their report ought to contain simply a detail of matter of fact; and that, on such evidence, every Peer, whether Lawyer or not, was competent to form and deliver his own unbiaſſed opinion. This was just—this was equitable—this was worthy a Committee of Inquiry, appointed by a Court of Judicature, paramount to all other Courts in the country, and

to whose proceedings all other Courts look up with reverence and submission.—Now, mark the conduct of the Pamphlet Writer—after a year's consideration, and the exercise of his pen, in dissecting and misrepresenting the evidence reported before the Lords Committees, he publishes his Remarks on the very day previous to that on which it was expected the House of Lords might probably take the report of their Committee into consideration.—After nearly twelve months preparation, he, presumingly, comes forward and obtrudes his animadversions upon their Lordships' notice, to warp, if possible, their minds into a partial determination on a case, in which is involved a property of considerable magnitude, the interests of a number of people, and consequences the most serious to the parties injured. The speaking to evidence by lawyers to juries in the inferior Courts of Jurisprudence, has been considered, by the wisest of judges, and the most learned at the bar, as a custom militating with the principles of justice, and innovating on the dignified simplicity of trial by jury;—then, with what strength of censure, and severity of punishment, should that writer be stigmatized, who dares, through the medium of an anonymous publication, attempt to influence the very Forum where the last and immutable sentence of causes is pronounced. I am authorized by the first authorities in the law to say,

say, that this attempt to influence the Lords, is not only a gross contempt of their judicial authority, but a most shameful, flagrant, and indefensible breach of parliamentary privilege. The inferior Courts never permit such atrocities to escape with impunity. In the Dean of St. Asaph's case, a similar attempt at undue influence was made, and the Court of Nisi Prius postponed the trial, merely on that account, reprobated, in the strongest terms, the author of the publication, and declaring, that his punishment should be the most exemplary if discovered.

This proof of turpitude in the pamphlet writer would, perhaps, be sufficient to prevent men of sound understandings from being duped into partial opinion by a collection of *ex parte* evidence; but as indolent men are apt to mould their judgments from first impressions, and as few give themselves the trouble of investigating printed arguments, falacious, unjust and contemptible, as the pamphlet before us appears, it may succeed in affecting credulous and imbecile minds, and in furnishing topics, by which those who are interested in calumniating the Commissioners, and in injuring Mr. Ottiwell, may be able to declaim, to asperse, and to condemn, without aid of argument, or the proof of facts.

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In order, therefore, to obviate the malevolent intent of the pamphlet writer, it becomes necessary to hold forth, to public view, the gross features of his distorted and mutilated production, sent into the world by a corrupt and wretched parent, who, deterred either by fear or by shame, dare not give his name to his vile and illegitimate offspring.

The first falsehood set forth in the pamphlet, stands glaring upon the very face of the title page; and may be considered harbinger to the numerous train of untruths which follow. On the title page, this writer boldly asserts, that his remarks are "grounded on the evidence laid before the committee of the House of Lords, appointed in the sessions of 1794," though it appears, in the course of his argument, or rather in the detail of his assertions, that the evidence adduced, to support his remarks, is *not* the evidence produced before the committee. The proof of this observation is to be found by comparing the evidence before the committee with the pamphlet, by which it will appear, that the writer of the pamphlet, with a subtle mind, bent on a sinister purpose, has disjointed the evidence, and has partially selected only such parts as are subservient to his end. With affected candor he remarks, that, "The report of the lords committee, is in the possession of the public, and they will form their own

own opinions ;” but to pervert opinions, which a fair review of the report would do, is clearly his object ; or why has he written ? If the report be to guide the judgment of the public, why has he animadverted, unless for the purpose of leading that judgment astray ? Here the fiend, betraying himself, discovers his cloven foot, and stands self-convicted, without the aid of Ithuriel’s spear to strip him of his assumed character.

The leading fact set forth by the pamphlet writer, is rather unfortunately chosen. He positively asserts, “ It does not appear that the Commissioners ever attempted, for thirty-seven years past, until they entered into the agreement with Mr. Ottiwell, to exercise a power of setting any grounds until after they had purchased them.” In corroboration of this positive assertion, he boldly refers his readers to the evidence of Mr. Sherrard, in the report of the lords committee, and states his evidence thus—“ He, (Sherrard) does not *know* of any instance of the Commissioners, previous to the bargain with Mr. Ottiwell, setting, or selling, any ground until they had purchased it, or got it into their *actual possession*.” These words, as put into Mr. Sherrard’s mouth, but which never came out of it, appear strong in support of the fact stated ; and it is clear, they do not amount to a *positive* evidence of the fact, for they only go to prove, that Sherrard did not *know* of

of any such sale, which implies there might have been such sale without his knowledge ; but let us examine the evidence as set forth by the interrogatory and answer, on the face of the report of the lords committees, and not in the fictitious shape into which the pamphlet writer has kneaded it. The question put to Mr. Sherrard was, " Whether " he knows of any instance of the Commissioners " setting or selling any ground until they had purchased and got into possession of the same, previous to Mr. Ottiwell's bargain ?" And he answered, " Not to his *knowledge* or *recollection*." Is not this a gross *perversion* of evidence ? *First* it appears that the question put by the Commissioners is turned into an answer, fabricated and published for the witness—Secondly, the word *actual* is interpolated and placed before the word *possession*, as if there was no difference between a possession in *fact* and a possession in *law*. Thirdly, the word "*recollection*," used by the witness, is *expunged*, and the word *knowledge* only retained, whereas nothing can be clearer than this, that when a witness says he does not *recollect* a *fact*, he admits even more than the probability of the fact, and gives evidence, not against the *fact*, but against his own *memory*, and comes as near as possible to admitting a *belief*. That there was ground for such *belief*, had the question been put to the witness on his *belief*, will now be shewn, by producing the testimony of a gentleman, whose
character

character has ever been irreproachable, and which has been shamefully and totally *suppressed* by the pamphlet writer. Look into the report of the Lords Committees, and read what Mr. John Brabazon Lyfter has sworn, who being asked, “ Whether he knew any instance of the Board setting “ any grounds till after they had got possession of “ them ?” Answered—“ He has known *many instances*, but not till after valuation, and that “ they have in some instances, paid the proprietors with the money for which the premises “ were sold, joined with their other funds.”—Mr. Lyfter, being law agent to the Board of Commissioners for making wide streets, I must presume that his evidence on this point is conclusive, for he, from the nature of his situation, was intimately acquainted with all their proceedings,

In page 8, the pamphlet writer throws out his first insinuation against Mr. Beresford, by observing, “ It appears that Mr. Beresford was a “ person who took a principal part in conducting that business, and upon whom the Board very much relied,” We need no ghost to tell us this. Activity has always marked the character of Mr. Beresford in every department he has filled. To him may be imputed the savings to the public in the expenditures for improving the harbour of Dublin, whereby the lives of mariners, and the property of merchants have been preserved,

ed. To him the fair trader owes his protection from the depredations of smugglers, and of course to his sedulous attention, the national revenue is indebted for its vast encrease. If his advice had been taken, (as appears by the testimony of Mr. Sherrard, * before the Lords Committees,) the whole of the grounds North of Carlisle Bridge, the subject of the present inquiry, with their profits, if any there be, would long since have been in the possession of Government. Mr. Sherrard deposes—" He drew for Mr. Beresford, the plan
 " of the ground from Sackville-street to the new
 " Custom-House, in the year 1789, which he be-
 " lieves, he, (Mr. Beresford) laid before the Mar-
 " quis of Buckingham, which he afterwards al-
 " tered, agreeable to instructions from the Mar-
 " quis. The purpose of this plan was to have the
 " approbation of Government to the whole of the
 " improvements on that side of the river; and he
 " believes that Mr. Beresford recommended ve-
 " ry strongly to Government, to become the pur-
 " chasers of the whole of the grounds, in order to
 " carry the improvements into execution, with a
 " saving to the public, a short time before the
 " Marquis of Buckingham quit the kingdom; and
 " believes had it been done, it would have been a
 " great saving to the public, and that it was pro-
 " posed with that view." Not a word of this evi-
 " dence in the pamphlet; and yet a candid reader
 " must allow it fair to advance, that the man who
 " had

* Vide Report of the Lords Committees, p. 40.

had the public interest in view, when treating with Government, would not have lost sight of that object, when contracting with an individual ; and that as to the apparent lead which he is charged with exercising over a Board of Commissioners, composed of twenty-three Lords and Gentlemen of the first respectability ; when it is considered that Mr. Beresford was upwards of five-and-twenty years acting in public business, it is not unnatural to conclude, that his long experience, and known attention to official duties, with a capacity in which he had few equals, would create an influence, which is the result of respect, and not the consequence of control or of cunning.

Having now shewn, that the writer of the pamphlet before us, in the statement of the first fact, has produced and relied upon evidence adulterated by misrepresentation, interpolation, mutilation, transposition, and suppression, I will next proceed to prove, that the bargain, executed by the Commissioners and Mr. Ottiwell, was for the benefit of the public ; and in doing this, I will lay before the reader, a fair and honest statement of the evidence, taken verbatim from the report of the Lords Committees.

The first witness I shall produce is Mr. Sherard : a gentleman whose testimony, even in the opinion of the pamphlet writer, may be relied on.

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This gentleman, whose knowledge in the valuing of grounds is admitted, swears, that “in his opinion it would be for the public advantage, that the taker of the grounds should treat with the Commissioners for the whole;” and the reason he gives for forming this opinion, is, “that it would expedite the business.” I admit, that Mr. Sherrard immediately explains, that he means by the whole of the ground, not the whole of the ground taken by Mr. Ottiwell from the Commissioners, and included in the agreement recited in the report of the Lords Committees, but the whole of the grounds advertised to be set on the 7th of February, 1791, to the East end of Gardner’s-street; but surely it must be clear to every man of common sense, that the reason given by Mr. Sherrard, that taking the whole of the ground, would expedite the business, and of course, produce public advantage, justifies the Commissioners in setting to Mr. Ottiwell, all the grounds set forth in the agreement they made with him, provided they secured to the public an adequate compensation; and, that they did so, will be made to appear presently.

Here it is necessary to state four things:—

First, That “no preference was given to Mr. Ottiwell, by the Commissioners.” *

* Vide Reports of the Lords Com. p. 13, 33, 35, 36, 39.

Secondly,

Secondly, That “ Mr. Sherrard never knew any
“ instance of any proposal being made before the
“ Board, that was not taken by the Board into
“ consideration.”

Thirdly, That “ Mr. Sherrard believes the
“ Commissioners were always particularly dispos-
“ ed to receiving proposals for letting or selling
“ by private contract. And,

Fourthly, That “ if any person had proposed a
“ better price, and equal security, before the
“ terms of agreement were finally settled by Mr.
“ Ottiwell, he believes such terms would have
“ been accepted by the Board.”

If then the terms accepted from Mr. Ottiwell,
were the best terms offered, it follows that the
Commissioners did their duty, by concluding with
him; and this is further corroborated by an unde-
niable fact, that the public for a length of time,
had suffered under a considerable and an encreas-
ing loss, of which Mr. Sherrard gives the follow-
ing instance: Being questioned, “ Whether the
public suffered by grounds being unlet,” he an-
swered, that “ the actual loss by the delay on
“ the line of Sackville-street only, to the 24th of
“ June, 1793, was 15,433*l.* 18*s.* 5*d.* which loss
“ will be still accumulating, as the interest amounts
“ to upwards of 2000*l.* a year. That the course
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“ of the Commissioners upon that line, was to
 “ grant certificates, bearing five per cent. for the
 “ sums awarded to the different proprietors,
 “ which they were obliged to do, for want of a
 “ sufficient sum in hand, or they could not have
 “ carried on their improvement.” This conti-
 nual and encreasing loss by interest, &c. &c. shews
 the absolute necessity that the Commissioners lay
 under, to treat with the first solvent person
 who offered a reasonable price ; and experience
 had taught them, as appears in another part of
 Mr. Sherrard’s evidence, that they had not to
 expect a better price than Mr. Ottiwell offered, by
 keeping the market open ; for Mr. Sherrard says,
 and he is no where contradicted, “ that he has
 “ observed, the oftener grounds are brought to
 “ market, the lesser price they bring ;” and he
 supports his observation by a fact, from the sale
 of the Barley-field, the lots of which he says,
 “ the first time they were set up, (he means by
 “ auction) there were a few offers ; the second
 “ time less ; and they were then offered to the
 “ public by proposals, when only three proposals
 “ came in ; one of which was rejected, and the
 “ other two accepted.” I shall, in a subsequent
 part of this answer, remark on sales by public cant
 or auction. Here I shall only observe generally,
 that it is the worst mode ever adopted for dispos-
 ing of grounds. It is a mode by which no gen-
 tleman would attempt to sell his private estate, if
 he

he expected the real value; and I believe on every occasion, where the property of the public has been offered by the same mode, it has been found inadequate.

The next witness whose evidence appears relevant to the subject immediately before us, is Mr. HENRY DARLEY.* This gentleman's knowledge in the value of grounds in the City of Dublin, the result of fifty years experience, is indisputable; and his character places his veracity above all suspicion. To this his professional knowledge and character we are to impute the silence of the pamphlet writer, who suppresses his testimony. He could not be ignorant that this witness was above impeachment. He was neither interested on the part of the Commissioners, nor on the part of Mr. Ottiwell; and he gives his evidence with that candour which attaches respect to what he vouches. "He says, that previous to
 " Mr. Ottiwell's giving in his proposals to the
 " Commissioners, he did not know him, but had
 " seen him. That very early in the year 1791,
 " he attended the sale at the Exchange, where
 " there were but one or two bidders, and the sale
 " was adjourned. That soon after that time, he
 " met Mr. Beresford near the Custom-house, who
 " recommended him to take one hundred feet of
 " the ground, to which he answered he would
 " not," and gave this reason, "that he did not
 " choose

* Vide Report of the Lords Committee, pa. 17.

“ choose to build upon a high ground-rent.” A reason which probably had influenced others, as well as Mr. Darley, from becoming tenants to the Commissioners. He then answers, that “ he believes Mr. Ottiwell was present at the conversation,” and if Mr. Ottiwell was present, no doubt he attended to, and benefited by the opinion of a man, so competent to determine on the value of grounds, as Mr. Darley; and, indeed, this conversation must have made a deep impression on the mind of Mr. Ottiwell, or any other man’s mind, possessing common sense, and who had an extensive purchase in speculation.

Mr. Darley then says, that “ a few days after the above conversation, Mr. Beresford mentioned to him, that there was a proposal made, for the whole ground that was to be set at 22s. per foot, for the main streets; and 12s. per foot, for the back streets; and asked his opinion.”—Mr. Darley gave his opinion without reservation, and he swears to that opinion before the Commissioners.—He swears, that “ he told Mr. Beresford, he did think that, if any man, who could give good security, would give 24s. per foot, for the main streets; and 14s. per foot, for the back streets, it would be *a good job for the public*; that is, the ground would be well set.”

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By this estimate of Mr. Darley, it appears that, in his opinion, the highest price the Commissioners could expect was 24s. per foot, for the main streets, and 14s. per foot, for the back streets; but he does not state that he would himself give that price. No.—He swears, that “ he would not venture to take so much ground, and “ be subject to the consequence of its lying on “ his hands, even at 20s. per foot, for the main “ streets—the back streets he did not mention.”

Let us now enquire into the terms on which Mr. Ottiwell, agreed to take the grounds in question; and whether those terms were under the estimate of Mr. Darley.—

It appears, by the agreement executed by the Commissioners and Mr. Ottiwell, on the 16th November, 1791, and which is fully set forth in the report of the Lords Committee, that he took the lots of ground in question, at the following rates: that is to say,—“ For the fronts of the “ main streets, at the rent of £1. 3s. for each foot, “ lineal measure; and for the fronts of the cross “ streets 13s. per foot, lineal measure.”—Let us compare these rents with the evidence of Mr. Darley, and, presuming that he is a judge of the value of grounds, let us ask this plain question.—

Has Mr. Ottiwell agreed to give a fair rent?—Mr. Darley has answered this question most explicitly: he says, “in his opinion, he did, considering the great quantity of ground he would have to let.—Mr. Darley has estimated the highest rent at 24*s.* a foot, for the main streets; and 14*s.* for the back streets;—but, says Mr. Darley, I would not give 20*s.* from an apprehension it would lie on my hands.”—Does Mr. Ottiwell offer *less* than 20*s.* for the front streets? No, he offers more by 3*s.* a foot, than Mr. Darley would venture to give, which is 1*s.* more than the average between the two prices mentioned by Mr. Darley; and Mr. Darley would have no concern with the back streets.

Does this shew private favour to Mr. Ottiwell?—Mr. Beresford, it appears, was fully acquainted with Mr. Darley’s opinion; would he then recommend a friend to give a rent of 3*s.* a foot more than the ground was valued at by a judge of its real value?

But if the ground was that cheap bargain, which the writer of the pamphlet would impress on the public mind, is it to be supposed that Mr. Darley, who was solicited to become the tenant, would not either by himself, or his friends, have taken the whole or a part.—If he rejected the whole, why did he not take the 100 feet offered?

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The answer is plain—because he thought it would have been a dangerous speculation even at so low a rate as 20s. Mr. Darley is himself a builder, has brothers builders—a son a builder—many friends builders.—Mr. Darley was invited to take the whole, or a part of the grounds, now possessed by Mr. Ottiwell, yet he refuses.—If he objected merely on his own account, yet why did he not take it in partnership? Or recommend a slice to his brothers, or to his son, or some of his friends? It was because he thought the rent too high, and would not put any man he regarded into a situation he considered would be dangerous to himself.

One observation more on the evidence of Mr. Darley, and then I will proceed to the evidence of Mr. William Cope.

Mr. Darley swears, in answering an examination relative to the purchase the Commissioners made of Mr. Eccles's grounds, “that, to the best of his recollection, measuring (Mr. Eccles's ground) along Sackville-street, it came to about 24s. per foot:—that the agreement with Mr. Eccles was by *private contract*, by two arbitrators named by each party, and he (Mr. Darley) was one.”

This ground purchased by the Commissioners from Mr. Eccles is now one of the prime situa-

tions of Sackville-street. It brought but 24s. a foot; yet Mr. Ottiwell gives 23s. a foot for ground in every situation, on the line of every main street, even so low down as Mabbot-street, on the Strand:—A proof that Mr. Ottiwell has given a fair rent; which, indeed, if he had not offered, his proposal would have been rejected; for, says Mr. Darley, “If another bidder had given *six-pence a foot more* than Mr. Ottiwell, he would have had the preference.” And that other persons might have proposed, had they thought proper, also appears in full proof in the testimony of the same respectable witness, who swears, that “*previous to, and after, the agreement made by Mr. Ottiwell to the Commissioners, it was spoken of publicly.*”

Yet this agreement, notoriously known, is what the writer of the pamphlet calls a *private transaction*.

MR. WILLIAM COPE now appears before the Lords Committees—and a citizen of stricter probity, or more inviolate reputation, was never examined as a witness. His evidence is—

Q. “Had he in his hands building-grounds
“at the time Mr. Ottiwell took the grounds from
“the Commissioners?”

A. “He

A. " He had.

Q. " Did he take any ground since ?

A. " He did from Mr. Moland, in December
" 1791, adjoining the ground which Mr. Otti-
" well has agreed for with the Commissioners,
" and on the same line with Gardiner-street.

Q. " What does he give per foot on the
" building-front ?

A. " On the building-front it stands him in
" about 8s. per foot—but he took it a lump-
" rent,

Q. " What depth does he mean to give with
" the front that joins Mr. Ottiwell's ground ?

A. " One hundred and fifty feet.

Q. " Had he ever any offer for the grounds
" that joins Mr. Ottiwell's in the same line of
" the street ?

A. " He had some time about the middle of
" the year 1792, at 30s. per foot, which he re-
" fused, as he expected 40s. per foot.

Q. " What

Q. " What rent does Mr. Ottiwell pay for the
" ground immediately joining his in Gardner's-
" street ?

A. " He pays 13s. per foot.

Q. " What difference he thinks there is be-
" tween his ground and Mr. Ottiwell's ground
" adjoining his ?

A. " He thinks his a great deal more valu-
" able.

Q. " Did he know that the grounds that were
" afterwards agreed to be let to Mr. Ottiwell
" were to be disposed of, and had he any thoughts
" of bidding for them ?

A. " He certainly did ; they were publicly
" advertised, and maps hung up in the Royal
" Exchange.—That he had not any intention of
" bidding for them.

Q. " At the time he took the ground from Mr.
" Moland, which did he consider his bargain
" with him, or Mr. Ottiwell's bargain at the
" time he made the agreement with the Commis-
" sioners, the best, in proportion to the number
" of feet in each ?

A. " For

A. " For so much as his went, he considers
 " his *vastly* superior.—That there was at that
 " time a general public talk of censure against
 " the Commissioners for setting to Mr. Ottiwell;
 " and his observations at that time *was*, that it
 " would remove all possibility of censure, his
 " take was so much inferior in price.

Q. " Is it uncommon, in his belief, that those
 " who have taken grounds have made, by let-
 " ting them again, double and treble the rent
 " at which they were originally taken?

A. " The fact is so from his own knowledge."

Mr. Cope then, in observation strong and pointed, deposes, that " Mr. Ottiwell is not in
 " possession of an advantageous and profitable
 " bargain; but of such a bargain as he would
 " find it extremely difficult to dispose of to ad-
 " vantage: for though it appears, that within
 " six or twelve months after Mr. Ottiwell exe-
 " cuted the agreement with the Commissioners,
 " there was a rise in the value of grounds, yet
 " since that time there was a very *great fall*;"
 so that Mr. Ottiwell was rather short-sighted in
 his speculation. He did not foresee those causes
 which produced the fall of rents, but which are
 very emphatically recapitulated by Mr. Cope in
 his evidence; that is, " The damp brought upon
 " public

“ public credit by the present war.—A delay
 “ in opening the avenues to Carlisle bridge.—
 “ Bringing into question the *takes* which have
 “ been granted, and the inquiry by the House
 “ of Lords, which,” he says, “ have done *him*
 “ injury as well as Mr. Ottiwell, and every other
 “ person engaged in taking of grounds, as it
 “ brings doubts on the title, and whether the
 “ avenues will ever be opened.”

It would be an insult on the public judgment to offer a minute comment on the evidence of Mr. Cope.—He states facts in the plain and honest language of *truth*; and on this account, it may fairly be presumed, the writer of the pamphlet has suppressed his testimony;—for, he establishes two points, which that writer has industriously laboured to conceal, by withholding, from the public view, the material parts of the depositions before the Lords Committees.

I say it establishes two points.—

First, That Mr. Ottiwell contracted with the Commissioners to give a higher rent for the grounds, than, in the opinion of a credible witness fully acquainted with their value, he ought to have given;—and, therefore, the public have not been injured.

Secondly,

Secondly, That from causes incidental, no doubt to all speculations, the value of these grounds have considerably decreased, and therefore, in proportion as they have decreased, the value of the contract on Mr. Ottiwell's part has diminished, but on the part of the public, it remains secured, to the value agreed for in the original bargain,

Though MR. COPE's testimony needs no corroboration, his veracity standing too strongly in the public opinion, to call for collateral support, yet, I will state some facts from the evidence of MR. CALDWELL, one of the Commissioners, which the writer of the pamphlet, with his usual want of candor, has purposely omitted.

This witness, in his testimony on the *consideration* given by MR. OTTIWELL, to the Commissioners, says—" That he thought the Commissioners had made so good a bargain for the public, that there was no probability an higher price would have been offered. That the Commissioners had been a long time of opinion, that very strong combinations had been formed against them. That they were compelled to purchase at what they thought a very high rate ; and though they never expected the public to be fully reimbursed, yet they were generally dissatisfied at the rates at which they sold.

" They

“ They thought the public lost too much in the
 “ difference between selling and buying.—What
 “ greatly influenced the Commissioners on mak-
 “ ing this bargain with Mr. Ottiwell was, they
 “ found they could not procure *thirty* shillings
 “ per foot, for some of the finest and most valua-
 “ ble lots that were to be sold in this or any other
 “ city. They thought what they had been offer-
 “ ed upon the whole, was a very fair proposal,
 “ because, though twenty-three shillings per foot,
 “ were too cheap for the lots that were put up to
 “ auction, and these were the most favourite
 “ lots; yet when they could not obtain thirty shil-
 “ lings per foot for them, twenty-three shillings
 “ per foot for the *whole* and the most distant lots,
 “ was an *advantageous bargain at that time.*”

The pamphlet writer will not, I believe, ven-
 ture to insinuate a doubt on the veracity of Mr.
 Caldwell—it would be the viper biting the file.—
 Mr. Caldwell says the bargain, at the time it was
 made, was “ *advantageous to the public.*” No
 observation on this by the writer of the pamphlet
 —His object is to shew, that after the bargain
 was made, it became profitable to Mr. Ottiwell.
 And what does this prove, that Mr. Ottiwell was
 right in his speculation. Did any man ever pur-
 chase or take ground without a prospect of profit;
 and should not the profit always be proportioned
 to the magnitude of the capital at stake, and the
 risque

risque of the adventure. No insurance could operate on Mr. Ottiwell; he embarked his property on the mere hope that resulted from a bold and spirited speculation; and if he had succeeded, every mind, untainted by envy, would have joined in congratulation. We have recent instances even in this country, where speculation has been rewarded with almost immediate profit. It was the case in the loan of the last year, and particularly the lottery, each producing not less than 100,000*l.* on which neither statement nor animadversion was laid before the public. Grounds rose in their value soon after Mr. Ottiwell perfected his contract with the Commissioners, and promised a considerable profit to him. If they had fallen, must he not have abided the loss? they have fallen, and he does abide the loss. If the speculation had totally failed, and he had been ruined, would his title ever have been questioned by any noble Lord?—No, had such a misfortune afflicted him, he might have sunk into insolvency, and have miserably perished in a gaol, unnoticed and unremembered.

The risque at which Mr. Ottiwell became tenant to the Commissioners, is, I say, a circumstance that must considerably influence a candid mind, when considering the proceedings which have taken place in the House of Lords, and before the Committee; and I am led to this observation, from perceiving that it does not appear in
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the pamphlet, though probably not unknown to the writer, that Mr. Ottiwell, at the time he entered into the agreement with the Commissioners, was in possession of a very considerable personal property, which was minutely inquired into, and fully proved before the Board, previous to the acceptance of his proposal. This property, with a collateral security of 20,000*l.*, entered into by his friends, were made responsible to the public for the performance of his engagements. He did not come forward a pauper, who had nothing to lose, but as a solvent tenant, fairly and honestly staking his all upon a foundation, from which he had a right to expect an independent fortune would arise to himself and to his family. Men of such spirit and enterprise, merit the encouragement of the public, and are intitled to the peculiar protection of the law, and the patronage of the Legislature; but they must expect, as Mr. Ottiwell has experienced, opposition and impediments to their progress in life from the invidious and the mean, whose base minds, writhing under torture at every industrious man's prosperity, and who, not having capacity to raise themselves to opulence, would pull down those who have to their own base level. The plan which Mr. Ottiwell undertook to accomplish, required the enormous sum of *two hundred thousand pounds*.—Its execution also demanded the superintendence of an active and well informed mind—a mind soaring
above

above the petty considerations that characterise those puffers and jobbers, who attended at the auctions to purchase "parts and parcels of the grounds," to turn their penny or rather their paper to the best advantage, without any regard to the great object of the legislature, the elegant convenience of the public, and the magnificent embellishments of the city; to which may be added, the expediting the plan laid down for the perfecting of both. Every improvement, though the profits become the private revenue of individuals, tends to the general good. The wealth of a metropolis increases with its beauty, its conveniences, and its amusements. These are the great attractions to strangers; these are the principal causes of increase to the inhabitants, and extension to trade—they support the manufacturer, keep money in circulation, and diffuse ease, cheerfulness, and plenty, over the country.

We now come to the evidence of friend Doctor Wait, a learned Physician, and speculator in new streets and old houses; and who, being a Quaker, gives his testimony, not upon *oath*, as the sound and established rule of the common law requires, but upon *affirmation*, by virtue of an act of Parliament. Were it possible for a Quaker to deviate from the strict line of rectitude, the evidence of the Doctor, would carry with it a strong suspicion of partiality: He does not come forward
like

like the other witnesses, to give mere parole testimony, but fully prepared with a partial testimony, written for the purpose of proving that "twenty-three shillings, per foot," the rent agreed upon by Mr. Ottiwell, was "notoriously under the value of the grounds; by which evidence it must be admitted, that, if the Doctor be right, Mr. Caldwell, Mr. Cope, and Mr. Henry Darley, are egregiously, if not corruptly, wrong. However, when we consider that the last mentioned gentlemen appear free from every bias that could induce them to favour Mr. Ottiwell, and that Doctor Wait confesses on his examination, that sometime previous to his appearing a witness against Mr. Ottiwell, he "had a disagreement or dispute with him," and that, "during the subsistence of that "dispute or disagreement, he expressed his determination to be *even* with him, if the matter in "dispute was not settled agreeable to his wishes;" it is not unreasonable to conclude, that the oaths of Messrs. Cope and Darley, ought to preponderate in the scale of credit against the affirmation of friend Wait, and that Mr. Caldwell should have credit in deposing, that "the bargain made was advantageous to the public."

I will now fairly state the evidence given on affirmation by Doctor Wait, before the Lords Committees, respecting the agreement between the Commissioners and Mr. Ottiwell, and as I proceed, will

will examine it. The Doctor giving evidence of the price the ground was set up at, on the 7th. of February, 1791, says, "he thought it prudent "to put his sentiments on paper, least he might "be misconceived. That he thinks if there *had* "been three bidders, at 31, 32, and 33s. he "believes all the lots would have been sold, and "that he supposes if the Commissioners could "have got 33s. the ground would have been sold "that day."

The ground however was not sold, and why? because not one of the speculators present at the sale, would advance upon 30s. a foot, the price at which the lots were put up at. They all thought the ground too dear at 30s. a foot, and, that is a reason which justifies the Commissioners in lowering their demands; for if they had continued to keep the rent at 30s. a foot, the grounds would have remained unlet to this hour, to the great loss of the public; who, as before stated, were paying interest of five per cent. per annum, on the certificates, issued by the Commissioners to those from whom they had purchased, and losing thereby 2000l. per annum. Besides, it is here to be observed, that Doctor Wait confines the whole of his evidence to the main streets, and to particular lots of those streets; whereas, Mr. Ottiwell became tenant to the back streets, as well as the main streets; the remote situations,

as well as to the public ones ; and, therefore, the rent he engaged for, is not to be judged of by the rent any particular situation might bring, but by what the whole of the grounds, on an average ought to bring, taking into consideration, this very material circumstance, that the tenant contracting was a man of property, who engaged, not only his own fortune, but that of his friends, as security to the lessors, for the faithful performance of his covenants.

The doctor then affirms, “ he considers 20s. “ would have been a good price to put it (the lot “ of ground) up at, and that 30s. was not an ex- “ orbitant price ; that if it had been set up at “ 20s. and three bidders had appeared, they must “ have knocked it down at 23s. if there had been “ no other bidder that day.”

When the doctor says, that “ 30s. was not an “ exorbitant price,” it is not unfair to infer, that he meant it was a dear price, particularly as by his own account, he “ knows the value of “ ground ;” and, as Mr. Darcy swears, this very Doctor Wait declared to him, after the completion of Mr. Ottiwell’s agreement with the Commissioners, “ that he did not think the average “ of the fronts in Abbey-street, and on the Quay, “ was worth 25s. per foot.”—So that he values some of the prime parts of the ground at no more than

than 2s. a foot, profit to Mr. Ottiwell. And "if he had got a *bargain* would have bid."—It is clear, the Doctor would have bid, had the ground been put up at 20s. a foot, and he considers that 20s. a foot, would have been a good price to put it up at. Now Mr. Ottiwell gave 23s. a foot, for the *whole*, and yet the Doctor thinks this rent "notoriously under value." The doctor would have bid for the prime lots, could he have got a *good bargain* himself, but being disappointed in that, his mind becomes irritated, his resentment to Mr. Ottiwell, on another account, which he acknowledged on his examination, becomes increased; and, influenced by these motives, he gives evidence that militates with the testimony of Mr. Cope, Mr. Darley, and Mr. Caldwell; for, as has been before stated, Mr. Cope on being asked, "Does he think, that when Mr. Ottiwell took these grounds from the Commissioners, that he gave a fair price for them?"—He answers—"He *does* think he gave a fair price, because of the bargain that he had made himself, and because men, who are *knowing* in the City of Dublin, would not give so much;" and this is fully corroborated by Mr. Darley. Whether the Doctor be one of the "*knowing ones*" is not for me to determine, though he says, he "understands the value of grounds;" but, that he is one of the *disappointed ones*, will, I believe, appear evident to every man who takes the trouble

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of reading his evidence, and considering his motives for giving it.

Let us here ask, has a single witness been produced to prove that such witness, or any person he knows, would have given a higher rent for the grounds, than Mr. Ottiwell has contracted to pay? Not one. For as to the evidence of Mr. Manders respecting *one* lot, that must remain in doubt, as he is flatly contradicted by Mr. Sherard.

Here I close the evidence on the question, Whether the contract entered into between the Commissioners and Mr. Ottiwell was prejudicial to the public?—and I heartily join with the writer of the pamphlet in the eulogium he pronounces on the Commissioners, believing (as he says he is convinced) that “they are men who would not knowingly enter into any agreement which appeared to them injurious to the public; nor exercise any power which they did not think they were legally possessed of.” But I do deny his malevolent insinuation, that the Board was imposed upon by cunning and design; and I do insist he has not adduced a single fact to shew a subtle or an unfair transaction on the part of Mr. Ottiwell. The compliment of honesty which he pays to the Board, is a wretched cobweb veil to his intention of imputing im-
position

position and fraud to Mr. Ottiwell.—Every man who knows the character of the Commissioners, knows that honesty is not the sole attribute of their minds. There are men among them of vigorous understandings and penetrating genius, who could not, nor would not, suffer themselves to be imposed upon.—But the Commissioners had strong inducements for closing with Mr. Ottiwell; they had evidence of his ability to make good his contract; they were secured in the payment of their rents by his fortune, and that of his friends, who became his recognizers.—They had been harrassed and disappointed by the paltry proposals of insolvent adventurers, and men of straw, without property or security; and they, therefore, to save the public from a growing interest that threatened encrease to an enormous debt;—to facilitate the convenience of the public, by opening the intended avenues; wisely and properly closed with Mr. Ottiwell, when he proposed a fair average price for the *whole* of the grounds on which the public improvements were to be made.

Another charge urged by the pamphlet writer, with apparent seriousness, is the pecuniary loss, which he states the public to have suffered from the agreement entered into by the Commissioners and Mr. Ottiwell. This he calculates at 44,180*l.* 18*s.* 4*d.* by subtracting the valuation of

Mr. Ottiwell's engagement from the gross sum paid by the public for the grounds purchased. This ostentatious exhibition of a *loss to the public*, makes, no doubt, a tremendous figure on paper, but it is only on paper, for on a fair investigation of the subject, it will appear a mere shadow,—a cypher, in which, the public have no interest whatever.

Though the manner in which the pamphlet writer brings forth this charge conceals the intended imposition from a first view, yet it requires no great strength of the mind's eye to pierce through the mist, and place the real object in a fair light. The fact is, that the Commissioners for making wide streets, do not estimate the value of the grounds and houses purchased by the authority of Parliament for the public use, that trust being reposed, by the Legislature, in *juries*. The Commissioners, I say, have not the right of purchasing invested in them, though they do possess the right of selling or letting. Now let us see what is it the *juries* purchase.—By the statement of the pamphlet writer, they purchase nothing but grounds, houses and materials, paying merely for their real and intrinsic value; that is, for what it might reasonably be supposed they would afterwards bring, by sale, at a fair and open market. But, I will shew, that they purchase extrinsic interests,

terests, which, from their very nature, are lost to the public; and yet, in many cases, are the principal object of jurors valuations. These extrinsic interests may be considered *ideal* property, as they consist in nothing corporeal, in nothing that can be possibly productive to the purchaser, for they are lost by the sale. For example, the jury not only put a value on the land, on the buildings, and other materials standing thereon, but on every interest attached to, connected with, or issuing out of them.—Thus every lessee, and sub-lessee, deriving title from the original proprietor of the ground, every mortgagee, annuitant, &c. &c. are to be satisfied for separate and individual interests. The occupant is also to be paid, for what the English term, the *good will* of his house or shop, in proportion to the profitable situation of his house, his shop, or even his cellar, or his bulk, (for cellars and bulks have been found good interests,) to which may be added the charges of removing from street to street, and many other incidental expences coming within the cognizance of a jury, who, on those occasions are seldom guided by the strict rules of *summum jus*, but admit good nature and fellow feeling into their bosoms, and form their verdicts accordingly.

In the report of the Lords Committee*, it is

* Vide Reports of the Lords Committee, 45.

very

very plainly stated by Mr. Sherrard, that the difference between the sum laid out in the purchase of ground, &c. necessary to the improvement of the south side only of Dame-street, and the sum produced by the letting of the same, by the Board of Commissioners, amounted to 99,442*l.* 1*s.* 11*d.* owing no doubt to the causes above stated, but on this fact, so indispensibly necessary to the elucidation of the charge brought by the pamphlet writer against Mr. Ottiwell's agreement, he has been criminally silent. I say criminally silent, because every corrupt suppression of truth in a man, who comes forward in assuming the character of a public informer, or accuser, is an offence equal in its magnitude, as being equally dangerous in its effects, to the wilful production of falsehood,

Having now, I trust to the satisfaction of my readers, proved, from the evidence of the witnesses, examined before the Lords Committes, that the agreement, executed between the Commissioners for making wide streets and Mr. Ottiwell, was not prejudicial to the public, but on the contrary, of benefit and convenience, had the improvements not been impeded in their progress, it must appear almost superfluous in me to offer another word; but as the writer of the pamphlet, whom I have undertaken to refute, has laid particular stress and censure on the circumstance, that "this contract was not a letting by
" auction."

“ auction,” I will venture to obtrude a few observations in answer to that charge, and in doing this, will illustrate those observations by extracts from the evidence produced before the Lords Committees.

As to sales by auction, in general, I believe experience will warrant me in saying, that whether the article to be disposed of, be lands or goods, that mode of sale has very seldom been found efficient to the end proposed; that is to the production of a fair and valuable consideration; as clearly appears by sales of lands foreclosed by mortgage, which we see daily postponed for want of bidders, and of goods sold by Sheriffs under writs of fieri facias. That auctions were the usual mode adopted by the Commissioners I allow, but not that they were the constant mode, Mr. Sherrard's evidence clears up this point: He says, “ the usual mode is
 “ sometimes by auction, and sometimes by private
 “ agreement, but more generally by auction. However, he gives several instances of sales by private agreement, and particularly points out the
 “ Club-house in College-green, the Accountant's-
 “ office in Foster's-place, the lot of ground intended for the Stamp-office in Anglesea-street, and
 “ two or three other pieces of ground in different
 “ situations.” Against sales by auction, Mr. Sherrard pronounces a very decided opinion, and with his usual perspicuity, makes this strong and
 convincing

convincing observation, viz. on being asked, "Whether it does not very often happen, that grounds which remain unsold for want of bidders, bring a greater price at the second setting up?" he positively answers that, "He has observed, that the oftner grounds have been brought to market the *lesser* price they bring," and he instances the case of the Barley-field. "These grounds" he says, "the first time they were set up, there were a few offers; the second time less; and they were then offered to the public by *proposal*, when only three proposals came in, one of which was rejected, and the other two accepted." Mr. Darley gives also, an instance of the inefficacy of sales by auction. "He attended" he says, "the sale at the Exchange, very early in the year 1791, that there were but one or two bidders, and the sale was adjourned." These adjournments which were frequent, and always attended with considerable expence, must have suggested to the Commissioners, the prudence of rejecting further experiments by auctions, and entering into contract by proposal. But there was a still stronger motive to induce the Committee to treat by proposal, as appears by the part of Mr. Sherrard's evidence, in which he states, with retrospect to the intended auction of the 7th of February, 1791, that "he believes it was a matter of notoriety, that there was a *combination* among the builders, and that the Board was

“ was acquainted with it afterwards, and that
 “ this combination was the cause that prevented
 “ the Commissioners from setting up those grounds
 “ again to public cant.” Between the periods
 of the 7th of February, and the 6th of May,
 1791, the same cause, united with others, suffi-
 ciently justify the Board of Commissioners in
 concluding an agreement with Mr. Ottiwell,
 This I do not assert on my own *ipse dixit*, but on
 authority the most respectable, authority *misquot-*
ed as uncontrovertable by the pamphlet writer,—
 the authority of Mr. Swan one of the Commis-
 sioners. This gentleman on being asked, “ What
 were the general inducement that instigated the
 Board to come to an agreement with Mr. Otti-
 well?” answered, “ That they conceived it the
 “ best thing they could do for the public, to
 “ bring the sale to a speedy conclusion. He at-
 “ tended two sales, (by auction) and there were
 “ no bidders; besides, the Commissioners being
 “ likely to have a vast quantity of ground upon
 “ their hands, which of course would lessen the
 “ value of it.” Mr. Caldwell, another Commis-
 sioner, gives a reason not less strong, he says,
 “ The Board were almost unanimous in agreeing
 “ to Mr. Ottiwell’s proposal, as they thought it
 “ very doubtful and uncertain, whether the esti-
 “ mate made, would produce as much, and they
 “ thought it MORE ADVANTAGEOUS TO MAKE
 “ A SURE BARGAIN.”

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Adverting now to the position at the commencement of these observations, "that the detection of "one willful falshood in evidence, should totally "devest the witness of credit," I will give an instance of the most shameful and premeditated perversion of fact on the part of the pamphlet writer; a perversion so plain, and so easily detected, that in stating it, he appears to have forgotten the subtilty and argumentative chicane which run through almost every other part of his remarks.

The perversion of fact alluded to is this, he states the names of the Commissioners appointed by act of parliament, to purchase and dispose of ground, &c. who, of course, according to the regular mode of conveyancing, are all made parties to the first part of the deed, executed to Mr. Ottiwell. And he then says, "This deed was executed by eight of "them only, viz. Lord Donoughmore, Lord "Mountjoy, the Right Hon. John Beresford, "Andrew Caldwell, Thomas Burgh, Frederick "Trench, John Claudius Beresford, and John "Swan; and it is *observable*, that neither the "Lord Mayor, the *Representatives of the city*, or "the *Aldermen* of the city, executed the deed."

This observation is specious. The pamphlet writer would have it believed, that those members of the Board, who from their connection with the city, must be supposed to have its interests at heart,

heart, were consulted not on the conditions of the deed, nor called upon to assent at its execution. That they were defrauded out of an exercise of the authority delegated to them by Parliament, and excluded from acting, in order that the other Commissioners might have an opportunity to favour Mr. Ottiwell.

But let us see how the truth really is—By the statute which appoints the Board of Commissioners, it is enacted, that if any member neglects attending the Board for six months, he vacates his seat.

Now at the time the agreement was executed between the Commissioners and Mr. Ottiwell, and long after, both of the Representatives for the city of Dublin were out of the kingdom, and neither of them had attended the Board for years; and as to the Lord Mayor, though the pamphlet writer has boldly ventured to assert, that the Lord Mayor did *not* sign the agreement, yet he actually did sign it; and I believe those who know Alderman Sankey, who was then Mayor, will concur in saying, that no Magistrate ever filled the prætorian bench of this metropolis, with more honour to himself, more dignity to his station, or with more tenacious regard to the municipal rights of the Citizens, and the general interest of the Nation.

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Here I conclude my argument—but let me call the attention of the House of Lords to a few points—

First, Let me humbly suggest to their Lordships, that while the agreement between the Commissioners and Mr. Ottiwell lies in abeyance and unopperative, the public suffer considerable inconvenience from the avenues to Carlisle Bridge, and the intended openings adjacent, remaining in an unfinished state.

Secondly, That the losses of private individuals, from the same cause, are truly calamitous, have nearly ruined some, and threaten bankruptcy to other honest and industrious men, deriving titles from the above agreement, and who have applied their industry and their fortunes to building. This appears from the evidence of Messrs. Glynn Darcy and others, who agree in this opinion, “that
“ from the many obstacles that Mr. Ottiwell had
“ to encounter, and from the low price which
“ *large takes* of ground have set at, before and
“ since the taking of the ground in question, that
“ *he paid a fair price for it.*”

Thirdly, That the proceedings now carrying on against Mr. Ottiwell, must prevent in future any private man from bargaining with the Commissioners, or other persons employed on the part
of

of the public. He had a right to believe, that the statute, under the authority of which they acted, vested in them an *unquestionable power* ; that he was as fully protected in his bargain with them, as if he had dealt with private men, disposing of their own property ; and, that so far from his being left open to loss and to ruin from wanton and malevolent persecution, he would have found their lordships his guarantees and his protectors.

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of the public. He had a right to believe, that the
statute, under the authority of which they acted,
vested in the trustees the power; that he
was as fully in his bargain with them,
as if he had had private men, disposing of
their own property, and that he was from his be-
ing left open to loss and ruin from wanton and
malicious persecution, he would have found their
indiscreet promises and his protectors.



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